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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/615,437	07/13/00	KIM	C CRIM 3.0-001

<input type="checkbox"/> 000530	HM22/0712	EXAMINER	HUYNH, P
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD NJ 07090		ART UNIT	1644

DATE MAILED: 07/12/01

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 09/615,437	Applicant(s) KIM, CHRISTOPHER M.
	Examiner " Neon" Phuong Huynh	Art Unit 1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE Three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 30 April 2001.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 11-28 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.
- 12) The oath or declaration is objected to by the Examiner.

#### **Priority under 35 U.S.C. § 119**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### **Attachment(s)**

- 15) Notice of References Cited (PTO-892)
- 16) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 19) Notice of Informal Patent Application (PTO-152)
- 20) Other: \_\_\_\_\_

**DETAILED ACTION**

1. This Office Action will be in response to applicant's arguments, filed on 4/30/01 (Paper No. 7). Specification has been amended.  
Claims 12-14, 16-21, 23-25 and 27 have been amended.  
Claims 1-30 are pending.
2. In response to typographical error, when the previous Office Action (Paper No. 6) is taken in its totality and lines 10-11 of item 2 on page 2 of the previous action, it is clear that "claims 11-18" was a typographical error. The typographical error is hereby corrected for the record. Claims 11-28 were being acted upon in the previous Office Action (Paper No. 6) and Claims 1-10 and 29-30 were withdrawn from further consideration by the examiner, 37 C.F.R. 1.142(b) as being drawn to non-elected inventions. The examiner apologizes for any inconvenience to applicants.
3. Upon consideration of applicant's amendment, 4/30/01 (Paper No. 7), the previous objection of the specification has been withdrawn.
4. Claims 19 and 20 are objected to because "be venom" is misspelled.
5. Claim 25 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention is hereby withdrawn in view of applicant's amendment, 4/30/01 (Paper No. 7).
6. Claims 11, 22, 26 stand rejected under 35 U.S.C. 102(b) as being anticipated by Steigerwaldt *et al.* (AS on PTO 1449, See entire document) essentially for the reasons of record set forth in Paper No. 6.

Applicant's arguments, filed 4/30/01, have been fully considered but are not found convincing. Applicant argues that the Steigerwaldt reference does not teach intradermal injection of bee venom and anesthetic for rheumatoid arthritis **simultaneously or consecutively**. However, these claims stand rejected because administration if not simultaneously is then consecutively as anticipated by the reference. The rejection is maintained, essentially for the reasons of record set forth in Paper No. 6.

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7. Claims 11, 22, 26 and 27 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kim *et al.* (AS on PTO 1449; See entire document), in view of Ogram *et al.* (U.S. Patent 6,029,863; See entire document) essentially for the reasons of record set forth in Paper No. 6.

Applicant's arguments, filed 4/30/01, have been fully considered but have not been found convincing. The arguments of counsel cannot take the place of evidence in the record. In re Schulze, 145 USPQ 716, 718 (CCPA 1965). See MPEP 716.01(b). Examples of attorney statements which are not evidence and which must be supported by an appropriate affidavit or declaration include statements regarding unexpected results, commercial success, solution of a long - felt need, inoperability of the prior art, invention before the date of the reference, and allegations that the author(s) of the prior art derived the disclosed subject matter from the applicant. The rejection is maintained, essentially for the reasons of record set forth in Paper No. 6.

8. No claim is allowed.
9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to "Neon" Phuong Huynh whose telephone number is (703) 308-4844. The examiner can normally be reached Monday through Friday from 9:00 am to 6:00 p.m. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (703) 308-3973. Any

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inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

11. Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 305-7401.

Phuong N. Huynh, Ph.D.  
Patent Examiner  
Technology Center 1600  
July 12, 2001



Patrick J. Nolan, Ph.D.  
Primary Examiner  
Technology Center 1600